

JOSEPH P. RUSSONIELLO (CABN 44332)
United States Attorney

BRIAN J. STRETCH (CABN 163973)
Chief, Criminal Division

HANLEY CHEW (CSBN 189985)
Assistant United States Attorney
San Jose Division

150 Almaden Boulevard, Suite 900
San Jose, California 95113
Telephone: (408) 535-5060
Facsimile: (408) 535-5066
Hanley.Chew@usdoj.gov

E-FILED - 9/25/08

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
GARY JAMES ROLLER,)
)
Defendant.)
)
)
)
)
)

No. CR 08-00361 RMW

**STIPULATION AND []
ORDER CONTINUING STATUS
CONFERENCE FROM SEPTEMBER
15, 2008 TO SEPTEMBER 29, 2008 AND
EXCLUDING TIME FROM
SEPTEMBER 15, 2008 THROUGH
SEPTEMBER 29, 2008, FROM
CALCULATIONS UNDER THE
SPEEDY TRIAL ACT (18 U.S.C. § 3161)**

The parties hereby request that the Court enter this order continuing the status conference from September 15, 2008 to September 29, 2008 and excluding time from September 15, 2008 through September 29, 2008. The parties, including the defendant, stipulate as follows:

1. The defendant understands and agrees to the exclusion of time from calculations under the Speedy Trial Act, 18 U.S.C. § 3161, for the period from September 15, 2008 through September 29, 2008 based upon the need for the defense counsel to investigate further the facts of the present case and determine what, if any, motions are appropriate. The government has produced discovery in this case and the defense counsel and defendant require additional time to

1 review and analyze this discovery. A status conference will not being meaningful until after
2 defendant and defense counsel has had an opportunity to complete their investigation. In
3 addition, defense counsel is currently in homicide trial in state court and anticipates that the trial
4 may last through the week of September 15, 2008. For continuity and effective preparation of
5 defense counsel, the parties agree that the status conference currently scheduled for September
6 15, 2008 and should be continued to September 29, 2008 at 9 a.m.

7 2. The attorney for defendant joins in the request to exclude time under the Speedy Trial
8 Act, 18 U.S.C. § 3161, for the above reasons, and believes the exclusion of time is necessary for
9 effective preparation of the defense; believes the exclusion is in the defendant's best interests;
10 and further agrees that the exclusion under the Speedy Trial Act, 18 U.S.C. § 3161, should be for
11 the period from September 15, 2008 through September 29, 2008.

12 Given these circumstances, the parties believe, and request that the Court find, that the
13 ends of justice are served by excluding from calculations the period from September 15, 2008
14 through September 29, 2008 outweigh the best interests of the public and the defendant in a
15 speedy trial under the Speedy Trial Act, 18 U.S.C. § 3161(h)(8)(A) & (B)(iv).

16 IT IS SO STIPULATED.

17 DATED: 9/4/08

/s/ Richard Pointer
RICHARD POINTER

19
20 DATED: 9/4/08

/s/ Hanley Chew
HANLEY CHEW
Assistant United States Attorney

22 **[] ORDER**

23 Having considered the stipulation of the parties, the Court finds that: (1) the defendant
24 understands and agrees to the exclusion of time from calculations under the Speedy Trial Act, 18
25 U.S.C. § 3161, from September 15, 2008 through September 29, 2008, based upon the need for
26 the defense counsel to investigate further the facts of the present case, review the discovery that
27 the government has already provided and evaluate further possible defenses and motions
28

1 available to the defendant; (2) the exclusion of time is necessary for effective preparation of the
2 defense and is in the defendant's best interests; and (3) the ends of justice are served by
3 excluding from Speedy Trial calculations the period from September 15, 2008 through
4 September 29, 2008.

5 Accordingly, the Court further orders that (1) the status conference set for September 15,
6 2008 is vacated and that the next appearance date before this Court is scheduled for September
7 29, 2008 at 9:00 a.m.; and (2) the time from September 15, 2008 through September 29, 2008 is
8 excluded from time calculations under the Speedy Trial Act, 18 U.S.C. § 3161.

9
10 IT IS SO ORDERED.

11 DATED: 9/25/08
12 _____

Ronald M. Whyte

THE HONORABLE RONALD M. WHYTE
United States District Court Judge